



BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

FILED

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In the Matter of the Application of CALIFORNIA WATER SERVICE COMPANY (U60W), a corporation, for an order authorizing it to increase rates charged for water service in its Chico District by \$6,380,400 or 49.1% in July 2008, \$1,651,100 or 8.5% in July 2009, and by \$1,651,100 or 7.9% in July 2010; in its East Los Angeles District by \$7,193,200 or 36.5% in July 2008, \$2,034,800 or 7.6% in July 2009, and by \$2,034,800 or 7.0% in July 2010; in its Livermore District by \$3,960,900 or 31.2% in July 2008, \$942,200 or 5.6% in July 2009, and by \$942,200 or 5.4% in July 2010; in its Los Altos-Suburban District by \$5,172,500 or 30.5% in July 2008, \$1,189,100 or 5.4% in July 2009, and by \$1,189,100 or 5.1% in July 2010; in its Mid-Peninsula District by \$5,435,100 or 23.7% in July 2008, \$1,634,200 or 5.8% in July 2009, and by \$1,634,200 or 5.5% in July 2010; in its Salinas District by \$5,119,700 or 29.8% in July 2008, \$3,636,900 or 16.3% in July 2009, and by \$2,271,300 or 8.7% in July 2010; in its Stockton District by \$7,474,600 or 29.0% in July 2008, \$1,422,400 or 4.3% in July 2009, and by \$1,422,400 or 4.1% in July 2010; and in its Visalia District by \$3,651,907 or 28.4% in July 2008, \$3,546,440 or 21.3% in July 2009, and by \$3,620,482 or 17.6% in July 2010.

Application 07-07-001
(Filed July 3, 2007)

OPENING BRIEF OF INTERVENER JEFFREY YOUNG

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I.
INTRODUCTION

Pursuant to the schedule established at the hearing on February 14, 2008 and Rule 13.11 of the California Public Utilities Commission (Commission) Rules of Practice and Procedure, Intervener Jeffrey Young files this Concurrent Opening Brief on the issue of Application for California Water Service Company (CWS) increases in all of its 24 California Districts. In eight of those districts CWS seeks rate increases attributable to increases in expenditures in those districts. For all 24 districts CWS seeks review of General Office (GO) expenses.

The participation of Mr. Young is specific to Coast Springs area of the Redwood Valley District and only to the issues regarding GO expense. Mr. Young asked to intervene after getting notification that if the application were approved the rates for Coast Springs would increase by over 25%. It seemed that something must be amiss if by just increasing the GO, the total rate for would increase by such a large amount. [Ex 44:Attach D] This is significantly more than the increases for the other 15 districts which range from 7.3% to 18.7%. [Ex 44 p20]

Of primary concern is the equitable allocation of GO. For over thirty years the CPUC has utilized a “four-factor” approach to allocation. Although there is no “requirement” that this approach be followed, it has continued to be used. In this Application, the resultant allocation is skewed and provides much higher cost to customers in Redwood Valley than in other districts. This should be re-evaluated. In other cases the Commission has considered alternative formulas. In this case, it is more equitable for a “three-factor” approach to be used.

The charging of costs to GO should only occur when it is not possible to determine an alternative, more equitable, charging method. For a couple new programs CWS has recommended charging to GO out of convenience and an alternative should be considered.

The basis upon which CWS includes GO in this Application is derived from the decision adopting the “new rate plan”, D.0705062. This decision states that the Commission will “review” CWS’s GO expenses in their July 1, 2007 GRC. What the plan does not do is to provide for adjustment of the rates of other than the eight districts who are fully being reviewed in this GRC. Rather it only anticipates a utility may seek rate changes related to GO in districts not undergoing a GRC review and the utility may file an advice letter to implement any Commission-approved rates changes. Accordingly, CWS’ request for an effective date for rate changes to the sixteen districts, not in this GRC, is unsupported and inappropriate.

IV. JEFF YOUNG/CWS ISSUES

A. THREE-FACTOR MORE EQUITABLE

Use of a “three-factor” allocation formula provides for more equitable allocation of GO.

In allocating GO, CWS used the traditional “four-factor” method.

Both CWS and DRA acknowledged the use of the “four-factor” allocation method formula is not required by any rules or regulations, just practice. [CWS:TR:233:10-13, DRA:TR278:5-10] Additionally both testified it is appropriate that the GO be “allocated as fairly as possible” [CWS:TR229:21-24, DRA:TR277:27-28 & 278:1-3]

Also, both CWS and DRA acknowledged, during cross examination, that neither of them had performed any analysis as to how each district/area would be affected by using this formula. [CWS:TR 229: 27-28; DRA:TR 279:1-10] Thus neither organization had determined the level of cost that each district would incur and/or how much each customer would incur. Without such analysis neither organization was in a position to ascertain if the allocation method was fair.

As indicated by Young Ex. 101 the “four-factor” allocation method dates back to 1955/1956 and has continued to be followed by CWS since then. [CWS:TR 235:5-28]

Young Ex 102, based upon CWS data, indicates that using the “four-factor” formula, Coast Springs customers will pay \$325/year (using the requested GO costs) which is significantly higher than the average of \$224/year [Ex 102 page 2].

By adopting a “three-factor” allocation formula, Coast Springs would be \$253/year while the average would be \$ 208/year. Noteworthy also is that the other districts do not have their cost change appreciably. This is explained by Mr. Smegal: “a big change to them (Coast Springs) would not be reflected as a very big change to anyone else” [CWS:TR 239:10 - 240:17]

There is president for consideration of this approach. As noted in the last document of Young Exhibit 101 Selection of Various GO Allocation Methodologies：“various types of allocation factors have been proposed by the parties and authorized by this Commission over the years”. In support of this statement there were a number of citations, the most applicable being D.87468; PG&E Co. As stated in the footnote (1):

”PG&E argues that its utilization of the four-factor method to allocate common expenses is fair and reasonable. PG&E utilized the established four-factor method to allocate certain administrative and general expenses”

The document goes on to say staff recommends a two factor allocation because:

“the four-factor allocation produced distorted results for the Tuolumne Water System of \$10.11 per customer as opposed to a \$5.39 cost per customer for PG&E overall. The staff two-factor allocation resulted in a charge of \$6.09 per customer, a more equitable estimate.”

Accordingly it is recommended that the Commission adopt a three-factor approach using 1) district plant, 2) district services - customers, 3) district expenses - O&M) and exclude the fourth factor: district payroll. Although the resultant allocation would still leave Coast Springs at a much higher level than the average, it is a step toward minimizing inequities¹.

¹While the example in this brief is being limited to Coast Springs, it should be noted that the entire Redwood district would be served by acceptance of this request.

B. CHARGE DIRECT TO DISTRICTS

It is generally accepted that it is best to minimize GO and charge as much as practical directly to those receiving specific services.

This is not to say, it not reasonable for CWS to request costs be put into to GO if they feel there is no other alternative to recovering them.

So, the issue is whether charging to GO is necessary at this time. For convenience CWS has included staff in GO. By doing this there will not be an understanding by each district of their costs nor any accountability to each district for the cost of the programs. Additionally there will be little visibility of costs and no, or little, ability to manage/lower them.

The following will address two specific programs proposed to be included in GO.

A) Unidirectional Flushing

CWS is asking Unidirectional Flushing (flushing) be included in GO, because they believe a portion of their costs will not be recovered, specifically from the 16 districts not part of this GRC. [CWS:TR:249:23-25]

Noteworthy is that CWS indicated that when they file their 2009 GRC they intend to include these costs directly in each districts rates, not in GO. [CWS:TR:252:7-16; TR:253:20-23] Therefore after January, 2011 districts will understand the proposed plan for flushing in their district and the costs associated with each plan. By having this “visibility” each district manager will be able to determine if the approach is logical and efficient. Only through this level of review will district costs be evaluate and optimized.

For Coast Springs the issue is the time from July, 2009, when the 2008 GRC would have been effective until January, 2011 – or about 17 months.

While Mr. Smegal testified that each district will have 1/5 of its system flushed each year, he acknowledged for a small system like Coast Springs he did not know why they would flush 1/5 of the system each of five years. [CWS:TR:254:6-13] While not specific, his statement implies a more optimum approach would be to do more flushing on a less frequent basis and thus minimize cost to Coast Springs' customers.

If CWS were to want to minimize travel time and maximize efficiency it would seem more logical to do more, on fewer trips. Thus the logic of a "standard", one-size-fits-all program seems to fall apart. Again, as CWS has acknowledged the right way to charge is directly, as they will propose in the 2009 GRC. Again, only when each district has a chance to determine its own costs, will there be an opportunity to keep costs down.

Thus, it is my recommendation, that for the eight districts included within this GRC, CWS be allowed to include the cost for this program in their rates.

As a means to maximize their ability to recover costs, CWS could plan in the next 2 ½ years (until January, 2011) to do 100% of the flushing in the eight districts; rather than the 1/5 each year (or 50%) currently planned for.

By doing more in these districts, CWS would incur the same cost per year as they had estimated would be spent system wide; thus recovering all of their costs.²

For Coast Springs (and others) CWS can defer the program, ask for an interim rate increase, or perform a modest amount of work commensurate with rate attrition.³

²Table 4, tab2, in the report of operations reflects a cost of approximately \$600k for the eight districts in this GRC per year compared to \$1.3 million per year estimated (Ex. 7 tab2:pp 6&7)

³ For the period after July, 2009; D.0705062 (pg11) states "companies experiencing a delay in their GRCs under our new RCP may seek a rate modification....via advice letter." Footnote 6 on this same page emphasizes: "We do not designate this advice letter under any "Tier."

As a final point I concur with DRA's recommendation of removing all six flushing foreman positions for 2007 and five of the nine positions for 2008. [Ex.29:3.31]

B) Cross Connection Program

This program is more confusing. CWS is asking to include about 26 inspectors in GO [Ex 7:p60]. The following is an excerpt from their full description of the program (Tab 1):

CWS is planning to conduct a pilot program in 2008. The pilot program will take place in the Chico, Marysville, Oroville, Willows, Redwood Valley and Stockton Districts. Two of the personnel requests in 2008 will perform the CCCP tasks in the first five districts noted above, and their time and associated expenses will be allocated among those districts. The other two employees requested for 2008 will be for the Stockton District. The results from the pilot program will determine the implementation and expansion of the program in 2009 and beyond which is currently estimated at an additional 22 positions over what is being requested for 2008. (underline added) (Tab 1 of Results of Operation Ex 7;p49)

The confusion stems from the application including the costs in GO and the above description saying the costs are be allocated only to the districts in the "pilot program".

I assume that the Application is more accurate and it is CWS' intention to have the charges of the pilot program charged to GO. I support this, as it is a "pilot".

In responding to DRA's comments on this program, CWS asks, if costs are not allowed into GO at this time, a mechanism be provided to ensure future costs can be incorporated into rates. [Ex 1 p10]

I support this request, at the conclusion of the pilot program. However, consistent with the subject of this section, the costs of this program should not be lumped into GO, rather each district should consider the best way to accomplish the program and develop district (area) specific implementation plans and budgets.

Finally, I do not support the DRA position of allowing eleven of the twenty-two positions requested for 2009, as it is premature to ascertain any staffing level until the pilot program is concluded. [Ex.209:3.30]

C. TRANSITIONAL INTERIM RATES

Determining interim rates for sixteen districts should not be considered in this GRC.

One of CWS' "additional requests" is that the "traditional interim rates allowed under D.07-05-062 for the 16 districts not included in this filing be calculated based upon the adopted escalation formula from those districts' last GRC." [Ex44: Item 15 (L) p21]

While CWS is correct when it states D.0705062 provides for interim rate modification, it failed to explain that there is a procedure for requesting these changes in the Rate Plan. Specifically, and unambiguously, it requires the utility to file an advice letter. Nowhere in the decision does it say this issue will be addressed during this GRC.

Also, it should be noted that CWS did not provide "notice" to customers or others that this would be an issue in this case. When asked if notice was provided Mr. Smegal said "Probably this specific issue was not raised". [CWS:TR:258:16]

Additionally, there has been no testimony or data provided that would allow the Commission, or the parties, to evaluate or consider this request.

Since the Commission did not authorize this, and there has been no justification provided to support such a request, it should be denied.

D. EFFECTIVE DATE OF GO

The effective date of GO for the 16 districts (and specifically Coast Springs) should not be considered in this GRC.

The effective date for the districts not included in this GRC is an important one.⁴

⁴ At the prehearing conference I specifically raised the issue regarding what happens during the transition period. At that time ALJ Thomas stated: "That's fine as well. I think we need to obviously carry this proceeding out in compliance with the new Rate Case Plan, so to the extent that we're missing something or doing something that is inconsistent with the plan, that would be within the scope as well [TR 33:13-22]

CWS requested in its General Report on the Results of Operations and Prepared Testimony that: “As authorized in D. 07-05-062, the adopted general operations costs in this proceeding by applied to all districts concurrently on the effective date including the sixteen districts not undergoing a general rate case in this application.” (emphasis added) [Ex 7 pg 7]

The premise that the effective date is authorized in D.0705062 is not true.⁵

When asked during the hearings to show where in D.0705062 the Commission authorized this, Mr. Smegal could not do so. [CWS:TR:269:24-26]

Mr. Smegal testified: “The Decision 07-05-062, which is the rate case plan decision, allows that the CWS districts which would be delayed beyond the general three-year rate-case cycle would be allowed to ***put into effect interim rates at the date that they would have received a rate change on the three-year rate-case cycle.***” (emphasis added) [CWS:TR:255:13-20]

Here CWS is in agreement with my position that new rates would not be effective until Coast Springs’ rates would have changed in July, 2009.

Even had the effective date been one up for consideration, there has not been sufficient information provided to enable a decision.

⁵ D0705062 is explicit as to how GO is to be dealt with during the RCP transition period. The decision states “we will review all GO for (1) California Water Service Company with its July 1, 2007 GRC;....We anticipate that a utility may seek rate changes related to GO in districts not undergoing a GRC review. In such instances, the utility may file an advice letter to implement any Commission-approved rates changes.” (emphasis added) [D.0705062 p. 11-12]

Without any ambiguity, the decision is specific the only subject for consideration during this GRC is to “review GO” expense. Had the Commission wanted the rates effective at the time of the July 1, 2007 GRC, it would have simply said so. This is further clarified when the Commission goes on to say it only “anticipates” utilities “may” ask to implement rate changes.

It should be noted that only in this limited section of the Decision does the Commission specifically address GO and that the Rate Plan itself is silent regarding GO.

Additionally, since each district has very unique rate design, it is possible, if not likely, a change in GO will trigger a change in another aspect of the rate design.

In the case of Coast Springs one very real issue that must be evaluated is the Rate Support Fund (RSF). This is a fund that provides subsidy for Coast Springs and other areas/districts. It is a fund that was negotiated as part of an all-party settlement in the last GRC, D.06-08-011⁶. It is an issue that would have been reevaluated at the 2008 GRC and must be considered along with a GO change. [CWS:TR:271:24-273:28]

When asked if CWS had explained the basis for the RSF, Mr. Smegal said “no”. [ibid]

Since the Commission did not authorize an effective date, and there has been no justification provided to support such a request, it should be denied.

E. RATE CHANGES DURING THE TRANSITION

The new rate plan provides opportunity for utilities to request rate changes during the transition and allows a utility to request rate changes when GRCs are delayed beyond the three-year cycle.

Specifically in the Rate Plan:

Procedure to Address Delay Beyond the Three-Year GRC Cycle

A water utility that experiences a delay beyond three-years in filing a GRC application due to the transition to the RCP schedule may seek to implement an interim rate change via an advice letter.

⁶ The Decision noted: “The record shows that agreement was reached only after significant give-and-take between the parties. Attachment A to the proposed RSF settlement sets forth CalWater’s and DRA’s initial positions on each point, and how each was resolved in the settlement. All parties participated in the settlement negotiations, and all support the outcome. We conclude that the sponsoring parties are fairly representative of the affected interests, and the resulting settlement is reasonable in light of the whole record.” [D.0608011:p13]

Such filing will not excuse a utility from filing its future GRCs according to the RCP schedule. These interim rates, when approved, will be subject to refund and shall be adjusted upward or downward back to the effective date of the interim rates with the adoption of final rates by the Commission at the conclusion of a GRC scheduled under the RCP.

The procedures herein will only apply during our transition to the RCP in instances when this RCP schedule delays a GRC for any water utility beyond the three-year cycle set forth in Section 455.2. (emphasis added) [D.0705062 Appendix A: Rate Plan Plan: Section II B

Most noteworthy is that the decision does not provide for modifying any previous (GRC) decisions covering rates during the GRC cycle. As stated it “will only apply during our transition”.. “beyond the cycle in Section 455.2”

Further this point, In the case of Redwood Valley District (and seven others included in this rate case) D.0608011 has very specific requirements and procedures for the utility to adhere to until new rates would be in effect in July, 2009. In developing the decision the Commission considered settlement recommendations, stipulations by the parties and issues/arguments raised by the parties.

One final argument against any changes to rates for the 16 districts at this time is that CWS has failed to provide sufficient information regarding each of the (16) district’s approved rates (and formulas) to enable the parties to evaluate rate change requests. While the amount of GO to be allocated to each district/area will be established, the potential impact on other rate issues has not been considered in the application or the testimony.

Accordingly, as per the rate plan, CWS may use advice letters to seek changes in rates for the districts with delayed GRCs.

V.
CONCLUSION

As the parties, especially DRA and CWS, have worked hard to resolve the issues of GO expense, the purpose of the “review of General Office” has been met.

The use of the “four-factor” allocation formula has been used successfully for many years, but not without short comings. As has been demonstrated herein, this is another case where the formula has not provided reasonable results and an alternative is called for.

When costs are included within GO and are allocated there is less opportunity to effectively manage and control them at a district level. It is only when these costs (tasks) can be evaluated by personnel closest to the work, that efficiencies can be obtained. It should therefore be the goal of CWS to reduce charges to GO whenever possible.

Finally, the Commission is not in a position to evaluate changes to rates for the 16 districts which did not receive detailed review during this GRC.

Respectfully submitted,

/s/ Jeffrey Young

Jeffrey Young

CERTIFICATE OF SERVICE

I, Jeffrey Young, hereby certify that I have on this 7th day of March, 2008 caused a copy of the foregoing OPENING BRIEF OF INTERVENER JEFFREY YOUNG; A.07-07-001 to be served on the parties on the attached service list via electronic mail.

I declare under penalty of perjury that the foregoing is true and correct.

Executed this 7th day of March, 2008 at Santa Rosa, California.

/s/ Jeffrey Young

Jeffrey Young

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